

United States District Court
Eastern District of California

Giles Aubery,

Plaintiff,

vs.

Raghunath Sawkar, et al.,

Defendants.

No. Civ. S 00-1086 MCE PAN P

Findings and Recommendations

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July 19, 2000, the court directed service of process upon defendant Sawkar. Defendant never responded to the complaint and for more than three years plaintiff did not inquire about the status of the case, although he notified the court of his address changes in August 2002 and in January 2003.

March 16, 2004, the court gave plaintiff 45 days to explain in writing why the action should not be dismissed. That order was returned by the U.S. Postal service with the notation, "unclaim; death."

1 Since plaintiff lost interest in this case before his death,
2 the court does not require defendant to fulfill the requirements
3 of Fed. R. Civ. P. 25(a)(1).

4 It is recommended this action be dismissed for plaintiff's
5 failure to prosecute. See Fed. R. Civ. P. 41(b); L.R. 11-110.

6 Pursuant to the provisions of 28 U.S.C. § 636(b)(1), these
7 findings and recommendations are submitted to the United States
8 District Judge assigned to this case. Written objections may be
9 filed within 20 days of service of these findings and
10 recommendations. The document should be captioned "Objections to
11 Magistrate Judge's Findings and Recommendations." The district
12 judge may accept, reject, or modify these findings and
13 recommendations in whole or in part.

14 Dated: June 16, 2005.

15 /s/ Peter A. Nowinski
16 PETER A. NOWINSKI
17 Magistrate Judge
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